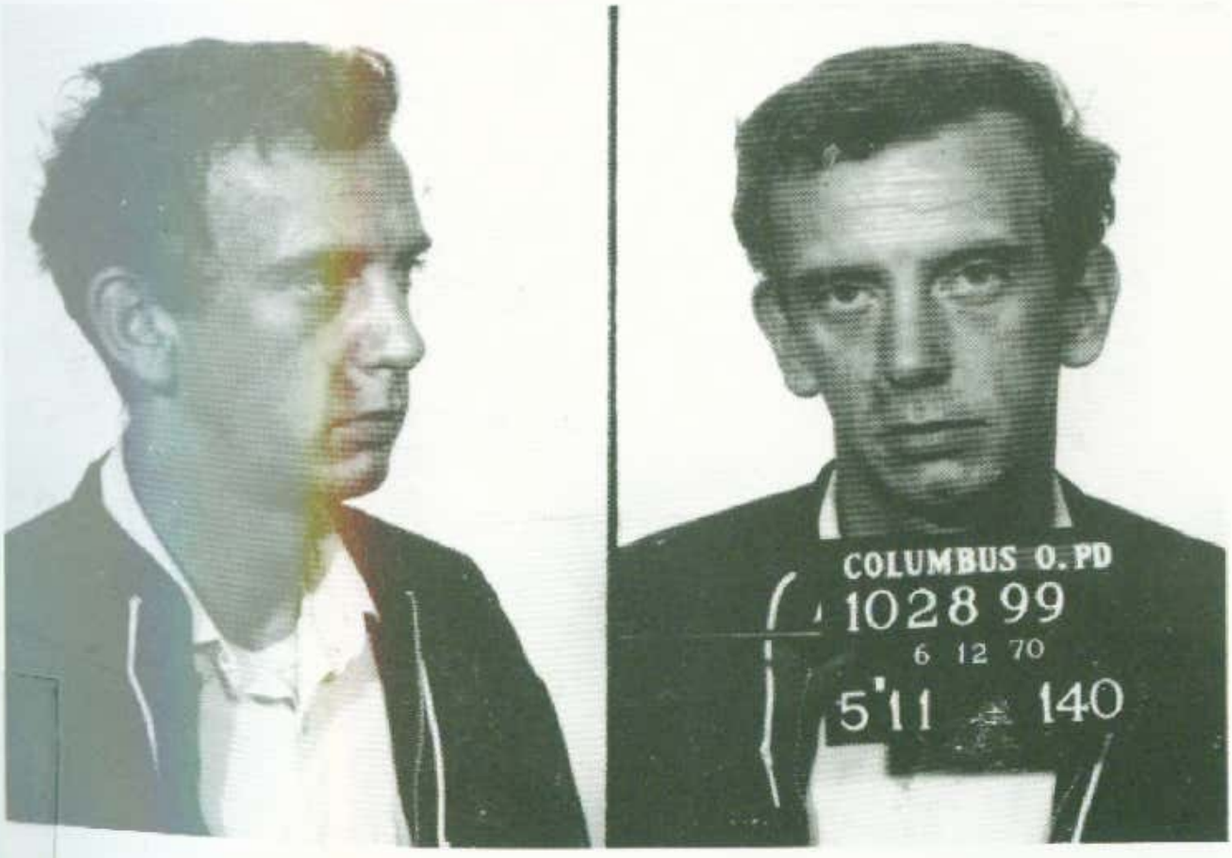
HOW TO CLEAR YOUR ADULT AND JUVENILE CRIMINAL RECORDS



by William A. Rinehart

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How to clear your adult and
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by William A. Rinehart

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How To Clear Your Adult And Juvenile Criminal Records
by William A. Rinehart
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Contents

Part One:
How To Clear Your Adult Criminal Record

Chapter One: 1
My Qualifications To Write This Book

Chapter Two: 5
Steps To Take To Clear Your Record

Chapter Three: 35
Current FBI Record Of The Author

Part Two:
How To Clear Your Juvenile Criminal Record

Chapter One: 45
Introduction

Chapter Two: 49
Foreword

Chapter Three: 53
Exactly *Who* Is A Juvenile?

Chapter Four: 57
Juveniles With Criminal Records

Chapter Five: 59
Facts About Juvenile Criminal Records
Expungement Laws

Chapter Six: 61
Steps To Take To Clear Your Record

Chapter Seven: 81
Conclusion

Important Information To The Users Of This Book 83

Appendix One: 89
Important Information — By State

Appendix Two: 93
Glossary

Appendix Three: 97
Rules and Regulations Regarding Disclosure Of FBI Records To Subject

In Regards To Author's Current Record ... 101

Dedication

This book is dedicated to the Doug Ashy, Sr. Family: Doug, Sr., his wife Claire, and his family: Dougie, Steve, and Kenny — who knows what "family values" are really about — and Father Bill Kelly on the Mississippi Coast — who knows where the eagles dare to fly.

— *Bill Rinehart*

Notice

This publication is designed to provide accurate, timely, and authoritative information in regard to adult and juvenile criminal records information. It is sold with the understanding that neither the author nor the publisher is engaged in rendering legal or other professional service to the reader. If legal advice or other expert assistance is required, the services of a competent professional person should be obtained.

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Part One

How To Clear Your *Adult* Criminal Record

Chapter One
My Qualifications To Write This Book

If I were going to buy a book entitled *How To Clear Your Adult and Juvenile Criminal Records*, I would want to know several things first — like did the author ever actually "clear" a criminal record? Don't I need a lawyer? Can I do it like he did? What makes this author better than the lawyers?

Good questions that need answers.

When I started "clearing" my own criminal record I had a seven-page FBI "rap sheet," (FBI Number 767-116F) with three felony convictions and over 30 misdemeanors on it. Let that sink in for a minute. I had been in prison (Ohio Number 141525). Between Ohio and Louisiana, I was looking at *60* years "Hard Time" if I had "maxxed out." I was looking at the "Three-Time Loser" law and *Life* if I didn't do something.

2

I "did" something. In 1988, I expunged a Louisiana felony conviction. The Court refused, but I took it to the State Supreme Court — and won. The FBI refused to erase it — but I forced them to. In 1991, I expunged it *again*. Then I got a pardon for the same conviction — but the pardon didn't include the Right To Bear Arms — so I got it pardoned *again*. I received two gold-seal pardons* for a record that didn't legally exist — and erased a felony from the records of the FBI. That was all Louisiana business.

In Ohio — on another Felony conviction — I found that a single felony had been *duplicated* on the FBI Records. It looked like I had two Ohio felony convictions two years apart. I Motioned to the Ohio court to "correct" the records — and place just one felony where it should be. But, I wanted the Right To Bear Arms, so I Motioned Ohio for Relief From Disability — and got it. Then I applied for a full pardon from Ohio — and got it.

In the meantime, I was in college, and the FBI Records were beginning to shrink. I kept writing to every place that I had a record and getting them erased.

I obtained a B.S. Degree in Criminal Justice, went to law school in California — and hated it. I went to grad school in Mississippi — and hated it. I became a State Corrections Officer (Prison Guard) in the same place where I had been an inmate. Everybody (inmates) knew me. I trained at Angola — the

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* All pardons that are signed by a state's governor are stamped with a gold seal, usually with the state's seal embossed within it.

Louisiana State Penitentiary. I became a private security guard — licensed.

I worked for VisionQuest of America — with a Child Abuse Clearance from the FBI. I worked on the National Household Drug Abuse Survey for the Department of Health and Human Services, and the U.S. Census Bureau.

I adopted two children from Mexico — after an FBI Record check.

So, then, after I did **all of that without a lawyer,** I figured I had to know something nobody else did — including the lawyers.

Now, my FBI record is two pages long, with a total of *five* entries — one of them a duplicate — and I enjoy all the rights that other citizens do (*see In Regards* to Author's Current Record at the book's end).

I guess that "qualifies" me to write this book, doesn't it?

Chapter Two

Steps To Take To Clear Your Record

Prior to beginning to clear your criminal record, it is very necessary that you know *exactly* what appears on your record. You may think you know, but this is not the time for surprises. You will need (1) a current copy of your FBI record, and (2) a copy of the Court Minutes of each case you are clearing.

To get a copy of your FBI record:

1. From any local law enforcement agency, obtain a set of your fingerprints.
2. Write a letter requesting a copy of your FBI Criminal Record. Be sure to include your full name, date of birth, Social Security number, place of birth, any and all other names you have ever used. Be sure to sign it in ink.
3. Obtain a money order in the amount of $18.00, made out to the U.S. Treasury Department.

4. Place your fingerprint card, your letter of request for the record, and the $18.00 money order in a large envelope and mail it, First Class, to:

   Federal Bureau of Investigation
   Identification Division
   Washington, D.C. 20537-9700.

(If you do not have the $18.00, request a Fee Waiver.)

Wait until you have your FBI Record before going any further.

On your FBI record, you will find the places (city & state) where you were charged with a crime, the date, and the charge(s). You will need to contact each of those places' Clerk of Court, Criminal Division, to get a copy of your Court Minutes. Usually a telephone call will work. When phoning, be sure that you get the Court's address, to mail your Motion To Expunge/Seal to.

From the information you got from your Court Minutes, in each case, fill in the blank Motion in this chapter with the correct information — step-by-step, number-by-number. Make three copies of it after it's filled out.

Send the *Original* Motion to the Clerk of Court where your record is on file. Attach a *copy* of the Court Minutes to the Motion.

Send a *copy* of your Motion to the prosecutor (find his/her name in your Court Minutes) in your case. With the copy to the prosecutor, write a letter asking for "Concurrence" — in other words asking him/her to allow you to clear your record.

7

Keep a copy of everything for yourself.

Filing Fees: There may be a charge from the Clerk of Court to file your Motion. If you do not have the money for fees, ask the Clerk for the papers to proceed *in forma pauperis,* which allows you to file for free. You cannot be kept out of Court just for being poor.

When sending your Motion to the Court, write a note asking that a copy of your Motion stamped "FILED" be sent back to you. It's important that you know it got there and that it will be given to your judge.

After that, all you can do is wait until the Court has made its decision on your case. It is very **important** that when you send your Motion you also send an **ORDER** (found in this chapter) along with it. If you don't, the Clerk will send the Motion back to you and ask for one.

What you're looking for is the *Signed* Order to come back to you. If it's signed, your record is **CLEARED.** If it's denied, the Court has to tell you why.

There are methods of appeal — too lengthy to explain here — but it can be done. I've done it. I won. You can too.

Instructions for Filling in and Filing Your Motion

BEFORE YOU DO **ANYTHING**, obtain a copy of the Court Minutes from the court that has your arrest record. This is an official document that has your docket number, charge(s), name, the date of your arrest, and the sentence you received. It also has the judge's name, the prosecutor's name, and the court reporter's name. You will need a copy of this document to file with your motion(s).

Using your Court Minutes (obtained from the Clerk of Court where your record is), fill in the blanks of the motion as follows:

1. In blank space #1, fill in the name of the STATE exactly as it appears on your Court Minutes.
2. In blank space #2, write the NAME or number of the District Court, exactly as it appears on you Court Minutes.
3. In blank space #3, fill in the DOCKET NUMBER exactly as it appears on your Court Minutes.
4. In blank space #4, write the name of the COUNTY/Parish where you were arrested.
5. In blank space #5, write your NAME exactly as it appears on your Court Minutes.
6. In blank space #6, write the NAME of the CITY where the Court is located.
7. In blank space #7, write **exactly** what the Motion is you are filing, i.e., Expungement, Sealing of Record, Purging of Record, etc. (Look up your State later in this chapter).

8. In blank space #8, write the **exact** laws or statutes you need to cite in order to accomplish what you want — using your State Laws guideline included in this chapter.
9. In blank space #9, write your street address.
10. In blank space #10, write your City, State and Zip code.

BE SURE THAT YOU SIGN YOUR MOTION!!!

When you have finished filling out the form, take it or mail it to the Clerk of Court, Criminal Division, where your record is, and file it into your record. There may be a filing fee. If you do not have the money, ask the clerk for the forms to *file in forma pauperis* (for free). BE SURE that you have attached a copy of your Court Minutes to your Motion. Be sure that you have put your address or telephone number somewhere where the clerk can see it so you can be contacted for a Hearing, or Notice of Trial. For more information, see the SAMPLE MOTION that follows.

GOOD LUCK!!

STATE OF (1.) * (2.) JUDICIAL DISTRICT
* DOCKET NO. (3.)
VERSUS * COUNTY OF (4), (1.)
* CRIMINAL DIVISION
(5.) * CITY OF (6.)

****

MOTION TO (7.)

NOW COMES (5.), Defendant in the above captioned matter, who avers that under the laws and statutes of this state, namely (8.), all requirements stipulated have been met on said charges, and he is eligible for the above captioned Post Conviction Relief.

THEREFORE, Defendant (5.) now comes to this Honorable Court with said Motion and prays that a Hearing date be set on said matter, or judgement be made and disclosed to Defendant.

Defendant states that a copy of the Court Minutes with the results of trial, sentencing, or dismissal of the above captioned case is filed with this Motion, and that all stipulations by the State Court according to sentence have been met.

RESPECTFULLY SUBMITTED,
(SIGN HERE _____)
(9.)
(10.)

(Insert name your Name)	* STATE OF (insert)
	* (Insert) District Court
VERSUS	* (Insert Docket No.)
	* CITY OF (Insert)
STATE OF (Insert)	* HONORABLE JUDGE (Insert)

****

ORDER

HAVING CONSIDERED THE ABOVE MOTION TO (Expunge/Seal) the Criminal Record of the Mover,(Insert Name), and there being no objection to granting said Motion to (Expunge/Seal) said Motion, and all parties having been notified of this Motion pursuant to law,

AND having found that Mover to be entitled to Relief sought in (His/Her) Petition to (Expunge/Seal) (His/Her) Record,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Criminal Record of (Insert **Name**) be (Expunged/Sealed) and that all law enforcement agencies having any record of said Defendant are hereby Ordered to (Expunge/Seal) said record.

SO ORDERED.

_____

Judge (Leave blank)

Statutes/Laws Necessary For Post-Conviction Relief In:

ALABAMA

Right to Inspect & Make Copy Of your Criminal Record: *32-2-60 through 32-2-62*

Right to Challenge (information on your criminal record): *41-9-645*

Judicial Review of Challenged Information: *41-9-645*

Purging, (Erasing, Expunging) *Non*conviction Information: *41-9-645*

ALASKA

Right to Inspect & Make Copy of your Criminal Record: *12.62.160(b)(11)*

Right to Challenge (information on your criminal record): *12.62.170(b)*

Sealing Conviction & *Non*conviction Information: 12.62.180(b)

Purging (Erasing, Expunging) *Conviction* Information: 12.62.190 (same for *Non*conviction)

ARIZONA

Right to Inspect & Make Copy of your Criminal Record: *41-1750.G.5; Reg. 13-1-08*

Right to Challenge (information on your criminal record): *41-2203.A.5; Reg. 13-1-08D*

Sealing Conviction Information: 13-907 (For Nonconviction: 13-4051)

Purging (Erasing, Expunging) *Conviction* Information: 8-247

ARKANSAS

Right to Inspect & Make Copy of your Criminal Record: *12-12-211*

Right to Challenge (information on your criminal record): *12-12-211; 12-12-1013*

Sealing Conviction Information: *None*

Purging (Erasing, Expunging) *Nonconviction* Information: *12-12-207(i)*

CALIFORNIA

Right to Inspect & Make Copy of your Criminal Record: *Pen. Code 13323;, 11122; 11124*

Right to Challenge (information on your criminal record): *Pen. Code 13324; 11126*

Sealing Conviction Information: *Pen. Code 1203.45* (Nonconviction: Pen. Code 851.8)

Purging (Erasing, Expunging) Nonconviction Information: *H&S Code 11361.5; Pen. Code 851.8 (**Conviction**: Same)*

COLORADO

Right to Inspect & Make Copy of your Criminal Record: 24-72-301; 24-72-306

Right To Challenge (information on your criminal record): 24-72-307

Sealing Conviction Information: 24-72-308 (Nonconviction: *Same*)

Purging (Erasing, Expunging) Conviction Information: 24-72-308(8)

CONNECTICUT

Right to Inspect & Make Copy of your Criminal Record: 54-142k

Right To Challenge (information on your criminal record): 54-142l

Sealing Conviction Information: 54-142a; 54-142b (Nonconviction: 29-16; 54-142a)

Purging (Erasing, Expunging) Conviction Information: 54-142a (Nonconviction: 54-142a)

DELAWARE

Right to Inspect & Make Copy of your Criminal Record: 11-8513

Right to Challenge (information on your criminal record): 11-8506(e); 11-1448A; 11-8560

Sealing Nonconviction Information: 11-4372

Purging (Erasing, Expunging) Conviction Information: 11-8506(c) (Nonconviction: Same)

DISTRICT OF COLUMBIA (WASHINGTON, D.C.)

Right to Inspect & Make Copy of your Criminal Record: 1-1522; 4-135; 1 DCMR 1004.1

Right to Challenge (information on your criminal record): None

Sealing Conviction Information: 33-541(e); SCR-Crim 118; Crim. 32(g).(Nonconviction): SCR Crim 118)

Purging (Erasing, Expunging) Conviction Information: None

FLORIDA

Right to Inspect & Make Copy of your Criminal Record: 943.056; Reg. 11C-8

Right to Challenge (information on your criminal record): (Same as above)

Sealing Conviction Information: 943.059; Reg. 11C-7 (Nonconviction: Same)

Purging (Erasing, Expunging): 943.0585; Reg. 11C-7 (Nonconviction: same)

GEORGIA

Right to Inspect & Make Copy of your Criminal Record: 35-3-37(b), & Reg. 140-2-.10

Right to Challenge (information on your criminal record): Same as above

Judicial Review of Challenged Information: Same as above

Sealing (Under Court Order) *Non*conviction Information: 42-8-65(a)

HAWAII

Right to Inspect & Make Copy of your Criminal Record: *92E-7; 846-14*

Right to Challenge (information on your criminal record): *92E-11; 846-14*

Sealing Conviction Information: 831-3.1; 712-1256 (Nonconviction: 831-3.2)

Purging (Erasing, Expunging) *Non*conviction Information: *831-3.2; 852-1(e)*

IDAHO

Right to Inspect & Make Copy of your Criminal Record: *9-342*

Right to Challenge (information on your criminal record): *9-342*

Sealing Conviction Information: *None (Nonconviction: None)*

Purging (Erasing, Expunging) *Non*conviction Information: *19-4813*

ILLINOIS

Right to Inspect & Make Copy of your Criminal Record: *20-2630/7*

Right to Challenge (information on your criminal record): *20/2630/7; 20-3930/7(h)*

Sealing Nonconviction: 20-2630/5

Purging (Erasing, Expunging) *Non*conviction Information: 20-2630/5; 20-2605/55(a). (*Conviction:* 730-5/5-6-3.1(f))

INDIANA

Right to Inspect & Make Copy of your Criminal Record: *5-2-5-8*

Right to Challenge (information on your criminal record): 5-2-5-8(b), 5-2-5-10(b)
Sealing Nonconviction Information: 35-38-5-1 (conviction: 35-38-5)
Purging (Erasing, Expunging) *Non*conviction Information: 35-38-5-1

IOWA

Right to Inspect & Make Copy of your Criminal Record: *Regs.* 692.5; 661-11.4; 661-11.5
Right to Challenge (information on your criminal record): 692.5; Regs. 661-11.4
Sealing Conviction Information: *907.9*
Purging (Erasing, Expunging) *Nonconviction* Information: 692.17; 692.16 *(Conviction: 907.9)*

KANSAS

Right to Inspect & Make Notes — your Criminal Record: 22-4709; 22-4711; Reg. 10-13-2
Right to Challenge (information on your criminal record): 22-4709; 22-4711
Sealing Conviction Information: 22-4619; 12-4516
Purging (Erasing, Expunging) *Nonconviction* Information: None (Use Civil Remedy: 22-4707)

KENTUCKY

Right to Inspect & Make Copy of your Criminal Record: 17.150; 61-874; 61-884; Reg. 502 KAR 30:070

Right to Challenge (information on your criminal record): Reg. 502 KAR 30:070

Sealing Nonconviction Information: 17.142

Purging (Erasing, Expunging) *Nonconviction* Information: Use 61.882; 17.157; or U.S. 1983 Civil Rights Act

LOUISIANA

Right to Inspect & Make Copy of your Criminal Record: Reg. LAC 1-18:3(9)

Right to Challenge (information on your criminal record): 15:588; Reg. LAC 1-18:4

Sealing Nonconviction Information: 44.9 (*conviction*: Same)

Purging (Erasing, Expunging) *Nonconviction* Information LRS 15:586; 44:9

MAINE

Right to Inspect & Make Copy of your Criminal Record: *16-620(1)*

Right to Challenge (information on your criminal record): *16-620(2),(3)*

Sealing Nonconviction Information: None (Use *25.1550,* or U.S. 1983 Civil Rights Action)

Purging (Erasing, Expunging): None (Use 25-1550 or Judicial Review-16-620(4) or U.S. 1983 Civil Rights Action)

MARYLAND

Right to Inspect and Obtain Copy: Reg. 12.15.01.05.

Purging of Nonconviction Information (Expungement): 27-736; 27-737
Removal of Disqualifications (Restores Rights): 27-641; 27-735 through 741
Right to State Nonexistence of Record: (can say you don't have a record): 27-641; 27-739; 27-740
Civil Remedies: Reg. 12.15.01.10; 27-753

MASSACHUSETTS

Right to Inspect and Obtain Copy (of your record): 6-175; Reg.803 CMR 6.02, 6.05, 6.06
Purging (Expungement) of Nonconviction Information: 6-175; Reg. 803 CMR 6.07(3)
Purging of *Conviction* Information: (same as above)
Sealing of Nonconviction Information: 276-100A, B, C; Reg. 803 CMR 7.02
Sealing of *Conviction* Information: 94C-34; 127-152; 276-100A, B, C; Reg. 803 CMR 7.02
Right to State Nonexistence of Record: 94C-34; 276-100A, C; 151B-4(a); 127-152
Civil Remedies: 6-177; 6-168; Reg. 803 CMR 6.07, 6.08

MICHIGAN

Right to Inspect and Obtain Copy (of your record): 15.235; 15.233
Purging (erasure) of Nonconviction Information: 28.243
Sealing of Nonconviction Information: 333.7411; 769.4a; 750.350a(4)

Sealing of Conviction Information: 780.623; 712A.18e
Right to State Nonexistence of Record: 37.2205a

MINNESOTA

Right to Inspect and Obtain Copy (of your record): 13.04, Subd. 3
Purging of Nonconviction Information (erases record): 299C.11; 152.18
Purging of *Conviction* Information: 152.18; 364.04
Sealing of Nonconviction Information: 299C.11; 152.18
Sealing of *Conviction* Information: 242.31; 364.04; 609.166 through 609.168; 638.02, Subd. 3-5
Removal of Disqualifications (Restores Rights): 152.18; 242.31; 364.03

MISSISSIPPI

Right to Inspect and Obtain Copy (of your record): 45-27-11
Purging (erasing) Nonconviction Information: 45-27-9(2), (4)
Purging *Conviction* Information: 45-27-9(10); 45-27-11
Civil Remedies: Fed. Reg. 28, Part 20, and 1983 Civil Rights suit

MISSOURI

Right to Inspect and Obtain Copy (of your record): Reg. CSR 30-3.070

Sealing of Nonconviction Information: 610.100; 610.105; 610.120
Sealing of *Conviction* Information: 610.106; 610.120
Right to State Nonexistence of Record: (can say that you don't have a criminal record): 610.110
Civil Remedies: Federal Regulation 28, Part 20, and 1983 Civil Rights suit for Deprivation of Civil Rights

MONTANA

Right to Inspect and Obtain Copy (of your record): 44-5-214
Purging (erasing) Nonconviction Information: 44-5-212; 44-5-202(8)
Purging *Conviction* Information: 44-5-212; 44-5-202(8)
Sealing of Nonconviction Information: 44-5-202(8)
Sealing of Conviction Information: 46-18-204
Civil Remedies: 44-2-205; 44-5-112

NEBRASKA

Right to Inspect and Obtain Copy (of your record): 29-3520; 29-3525
Right to Challenge (what's on your record): 29-3525; 29-3526
Civil Remedies: 84-712.03; 29-3528
Other Civil Remedies: Federal Regulation 28, Part 20, and 1983 Civil Rights suit

NEVADA

Right to Inspect and Obtain Copy (of your record): 179A.150

Purging (erasing) Nonconviction Information: 179A.075.2, and 179A.160

Purging *Conviction* Information: 179A.160.

Sealing: 179.255; 179.275

Sealing *Conviction* Information: 453.336; 179.245; 179.255; 179.275

Civil Remedies: 179.230.

Other Civil Remedies: Federal Regulation 28, Part 20, and 1983 Civil Rights Action suit for Deprivation of Civil Rights by Persons Acting Under Color of Law

NEW HAMPSHIRE

Right to Inspect and Obtain Copy: Reg. 3.B.9

Purging (erasure) of Nonconviction Information: Reg. 3.D

Purging of *Conviction* Information: Reg. 3.D.

Sealing of Nonconviction Information: 651:5; 318-B:28-a

Removal of Disqualifications (Restores Rights): 651:5

Right to State Nonexistence of Record: 651:5

NEW JERSEY

Right to Challenge (your record): NJAC 13:59-1.8(B)

Sealing Nonconviction Information: 2C:52-6; 2C:36A-1

Sealing of *Conviction* Information: 2C:52-2; 2C:52-3; and 2C:52-4,5

Removal of Disqualifications (Restores Rights): 2C:52-27

Right to State Nonexistence of Record (you can say that you don't have a record): 2C:52-27

Civil Remedies: 47:1A-4, 53:1-20

NEW MEXICO

Right to Inspect & Make Copy of your Criminal Record: 29-10-6; 29-10-8; 14-2-1; 14-2A-1; 32A-2-26; 32A-3B-22

Right to Challenge (information on your criminal record): 29-10-8

Sealing Nonconviction Information: 30-31-28; 32A-2-26

Purging (Erasing, Expunging) Nonconviction Information: 30-31-28; 32A-3B-26; 32A-3B-21; 32A-20-1; 32A-2-16

NEW YORK

Right to Inspect & Make Copy of your Criminal Record: Reg. 9 NYCRR 6050.1

Purging *Conviction* Information; CPL 160.55; Family Court Act § 354.1 (*Nonconviction*: CPL 160.50, FCA § 354.1)

Sealing Conviction Information: CPL 160.55(1.)(c); CPL 720.15; 3B-26; 32A-3B-21; 32A-20-1; 32A-2-16 (Nonconviction : CPL 160.50(1.)(c); CPL 170.56; CPL 720.15)

NORTH CAROLINA

Right to Inspect & Make Notes of your Record: REG. NCAC 4F.0404
Purging *Conviction* Information; 90-96; 15A-145; REG. NCAC 4F.0501 & 02 (Nonconviction: 15A-146; REG. NCAC 4F.0501 & 02)
Sealing Nonconviction Information: None
Sealing Conviction Information: None
Civil Remedies: Reg.: NCAC 4G.0201

NORTH DAKOTA

Right To Inspect & Make Notes of your Record: 12-60.3 & Administrative Rules
Purging *Conviction* Information: None (Nonconviction: None)
Sealing Nonconviction Information: None

Certainly, it appears that there are **NO** Adult laws for Expungement or Sealing in North Dakota, as well as **NO** Civil Remedies reported to the U.S. Department of Justice. In this case, I would file a 1983 Civil Rights Action against the State of North Dakota for Deprivation of Civil Rights By Persons Acting Under Color of State Authority, in *Federal Court*, and *serve* the Original court of Jurisdiction where your criminal records are on file. I would challenge the Record through 28 CFR Part 20, and N.D. 12-16.3, for *Access* & Challenge. I would then ask in Open Court *why* there are no Expungement *or* Sealing laws in North Dakota, and where is

Rehabilitation supposed to be recognized, and under what Conditions? Under "Pardon"? For *First Offense?* The lack of Expungement & Sealing laws in North Dakota leave open a viable avenue for a "Class Action" Civil Suit for those with criminal records. The State of North Dakota is Discriminating against a "Class" of citizens — every single one that has a criminal record — not just for a conviction, but just for being arrested. North Dakota has no Civil Remedies on the law books.

OHIO

Right to Inspect & Make Notes of your Records: None
Purging *Conviction* Information: None
Purging Nonconviction Information: 109.60, 2951.04.1
Sealing Nonconviction Information: None
Sealing *Conviction* Information: 2953.32

OKLAHOMA

Right to Inspect & Obtain a Copy of Record: 51-24A.5
Purging *Conviction* Information: 22-991C; 63-2-410
Purging Non*conviction* Information: 22-18; 22-991C; 22-305.4
Sealing Nonconviction Information: 22-18 & 19; 22-991C; 63-2-410
Sealing *Conviction* Information: (Exactly same as above)

OREGON

Right to Inspect & Obtain a Copy of Record: 181.540(1.)(b)
Purging *Conviction* Information; 137.225
Purging Nonconviction Information: Same as above
Sealing Nonconviction Information: 137.225(1.)(b)
Sealing *Conviction* Information: 137.225(1.)(a)

PENNSYLVANIA

Right to Inspect & Obtain a Copy of Record: 18-9151, 9152; & Reg. 195.4
Purging *Conviction* Information; 18-9122
Purging Nonconviction Information: Same as above
Sealing Nonconviction Information: None
Sealing *Conviction* Information: None

PUERTO RICO

Right to Inspect & Obtain a Copy of Record: ACT 4(m); Reg. 9(a)
Purging *Conviction* Information; ACT 8
Purging Non*conviction* Information: None
Sealing Nonconviction Information: None
Sealing *Conviction* Information: None

RHODE ISLAND

Right to Inspect & Obtain a Copy of Record: 38-2-3m), & Reg. 9(a)
Purging *Conviction* Information: None
Purging Non*conviction* Information: 12-1-12

Sealing Nonconviction Information: None
Sealing *Conviction* Information: 12-1.3-2

SOUTH CAROLINA

Right to Inspect & Obtain a Copy of Record: Reg. 73-25
Purging *Conviction* Information: Reg. 73-27, 22-5-910
Purging Non*conviction* Information: 17-1-40, Reg. 73-27
Sealing Nonconviction Information: None
Sealing *Conviction* Information: None

SOUTH DAKOTA

Right to Inspect & Obtain a Copy of Record: 1-11-13; 23-5-13; 23-6-9; Reg. 2:02:03:01
Purging *Conviction* Information: 23-6-8.1; Reg. 2:02:03:02 and 05
Purging Non*conviction* Information: Same as above
Sealing Nonconviction Information: None
Sealing *Conviction* Information: 23A-27-14 and 17

TENNESSEE

Right to Inspect & Obtain Record: 40-15-106; 40-32-101; 40-35-313; 10-7-506, 507; Regs. 1395-1-1-.08(1)(k)
Purging *Conviction* Information: None (See 40-35-313(b))
Purging Non*conviction* Information: 40-15-106; 40-32-101

Sealing Nonconviction Information: None
Sealing *Conviction* Information: 23A-27-14 and 17

TEXAS

Right to Inspect & Obtain Record: 40-15-106; 40-32-101; Reg. 37 TAC 27.1; TRCS 6252-17a
Purging *Conviction* Information: None
Purging Non*conviction* Information: Code Of Criminal Procedure Article 55.01
Sealing Nonconviction Information: None
Sealing *Conviction* Information: None

UTAH

Right to Inspect & Obtain Record: 53-5-214(7)
Purging *Conviction* Information: 77-18-2
Purging Non*conviction* Information: 77-18-2; 53-5-214(4)
Sealing Nonconviction Information: 77-18-2(2)(a)
Sealing *Conviction* Information: 77-18-2(3)

VERMONT

Right to Inspect & Obtain Record: Reg. 8.10
Purging *Conviction* Information: Reg. 10.10
Purging Non*conviction* Information: Reg. 10.10
Sealing Nonconviction Information: Reg. 10.10
Sealing *Conviction* Information: Reg. 10.10

VIRGIN ISLANDS

Right to Inspect & Obtain Record: T.3-881(b)
Purging *Conviction* Information: None
Purging Non*conviction* Information: None
Sealing Nonconviction Information: None
Sealing *Conviction* Information: None

VIRGINIA

Right to Inspect & Obtain Record: 19.2-389; 9-192, 193; Reg. 2.3, 2.4
Purging *Conviction* Information: None
Purging *Nonconviction* Information: 9-190
Sealing Nonconviction Information: 9-190; 19.2-392.2; Reg. 2.6
Sealing *Conviction* Information: Civil Remedy: 2.1-346.1, 9-194

WASHINGTON (State)

Right to Inspect & Obtain Record: 10.97.080; Reg. WAC 446-20-090
Purging *Conviction* Information: 9.94A.230; 10.97.060
Purging *Nonconviction* Information: 10.97.060; Reg. WAC 446-20-110
Sealing Nonconviction Information: 13.50.050
Sealing *Conviction* Information: 13.50.050

WEST VIRGINIA

Right to Inspect & Obtain Record: 29B-1-3

Purging *Conviction* Information: None
Purging Non*conviction* Information: 15-2-24(h)
Sealing Nonconviction Information: None
Sealing *Conviction* Information: None

WISCONSIN

Right to Inspect & Obtain Record: 19.35(1)
Purging *Conviction* Information: None
Purging Nonconviction: 165.84(1)
Sealing Nonconviction Information: None (Civil Remedy 19.37)
Sealing *Conviction* Information: None

WYOMING

Right to Inspect & Obtain Record: 7-19-109
Purging *Conviction* Information: 7-13-301
Purging Non*conviction*: None
Sealing Nonconviction Information: None (Civil Remedy — None)
Sealing *Conviction* Information: None

Federal Statutory Law(s)

No federal statutes provide a definitive or comprehensive right to seal or purge (Expunge) *Federal* (FBI) Criminal History Records. The WRIT of "*coram nobis*" [28 U.S.C. Section 1651], aka Writs of Error, permits federal courts to correct, amend, or **delete** erroneous facts in FBI criminal justice records. In addition, Plaintiffs have been successful in using the

Federal "CIVIL RIGHTS ACT" [1871 (42 U.S.C. Section 1983)] to obtain the *purging* and *sealing* of Illegal or Improper Arrests.

The Federal Criminal Justice Regulations (like their counterpart — JSIA Regulations) *also* permit subjects of Federal Criminal History Records to seek the correction, amendment, or in some cases the *deletion* of inaccurate or incomplete information [28 CFR (Code of Federal Regulations) Section 16.32].

Finally, the Federal "Privacy Act of 1974" may, in some cases give subjects of Federal Criminal History Records a right to review, amend, or *delete* inaccurate or incomplete information. (Call CRCI for Case cites. CRCI is meant to be the Criminal Record Clearance Information telephone number for the Clearinghouse. Until it is in use, please use 1-318-984-6046, my home telephone number.)

What if an Order to Expunge/Seal is Ignored?

At any time, after 90 days of your having been GRANTED any relief of any kind on your criminal record, and you have checked your record at the end of 90 days and that relief does not appear on your state, FBI, or local police record, take this page to the law enforcement agency in question, show it to them, tell them they are in violation of Federal regulations, and tell them you are going to the U.S. Courthouse to file charges against them. Also tell them that they are about to lose all federal funding

for not complying with the ORDER from the State/County/District/City court.

Department of Justice: United States Federal Regulation 28, Part 20:

Plaintiff Brief on Duties and Responsibilities of *STATE* Criminal History Record Reporting Agencies, Under United States Department of Justice Federal Regulation 28, Part 20, "Criminal Justice Information Systems"

MAY IT PLEASE THE COURT, the following information is for the convenience of the Court. In order to establish the *states'* responsibilities to the Federal Government (FBI), in the content, timeliness, and accuracy of State law enforcement agencies' submissions to the Federal Government, Plaintiff now presents the following information for this Court's consideration: 28 CFR, Part 20:

Subpart A — General Purpose

"It is the purpose of these regulations to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to insure completeness, integrity, accuracy and security of such information and to *'protect individual privacy'*."

Subpart B — **State and Local** Criminal History Record Information Systems:

§20.20 "Applicability"

(a) "The Regulations of this subpart apply to all *STATE* and local agencies and individuals collecting, storing, or disseminating criminal history record information processed by manual or automated operations where such collection, storage, or dissemina-

tion has been funded in whole or part with funds made available by (LEAA) or other Federal Program assistance since (LEAA)."

§20.21 "Preparation and Submission of a Criminal History Record Information Plan."

The "Plan" shall set forth operational procedures to:

(1.) Complete records should be maintained at a central **STATE** Repository. To be *complete*, a record maintained at a central **STATE** repository which contains information that an individual has been arrested, and which is available for *Dissemination*, ***must*** contain information of ***any*** Dispositions occurring within the ***STATE*** within ***90 days*** **after the Disposition has occurred."**

(2.) To be Accurate means that no record containing criminal history record information shall ***contain erroneous information.***

§20.24 ***STATE*** laws on privacy and security

"Where a ***STATE*** originating criminal history record information provides for *sealing or purging* thereof, nothing in these Regulations shall be construed to prevent any *other* ***STATE*** receiving such information, upon *Notification*, from complying with the Originating ***STATE's*** **Sealing or Purging** Requirements."

§20.24 Penalties

"Any agency or individual violating Subpart 'B' of these Regulations shall be subject to a fine not to exceed ***$10,000.00*** (for each offense). In addition, OJARS may initiate *Fund Cut-off* procedures against recipients of OJARS Assistance."

Chapter Three

Current FBI Record Of The Author

My FBI record was seven pages long when it was all in one piece, before I began clearing my record. In all, it at one time had some 17 arrests and/or convictions on it. Two of those were convictions for felonies; one in Louisiana, one in Ohio.

The ***CURRENT*** FBI record has but five *"Entries."* (Remember that my FBI record *mistakenly* contained ***three felony convictions*** — I could have been imprisoned for *Life* under the *"three times and you're out!!" law!)*

I did a little work since Chapter One, "My Qualifications to Write This Book," was written. I challenged the Ohio law enforcement authorities — because they had submitted *duplicate* copies of my conviction of 1973 — and had **not** "posted" my Ohio pardon, or my Louisiana pardon(s).

In the Ohio Court, I submitted a Motion for Correction of Record — and had the pardon(s) posted, along with my Relief From Disability. Soon thereafter, both appeared on my record. (See the letter from Ohio Bureau of Criminal Identification and Investigation, to the ***FBI.***)

Entry #1 on the new FBI record shows a Pardon and Relief from Disability from having a record — the offense dated *08/13/73.*

Entry #2 on the new FBI record is a misdemeanor — not something I worry about.

Entry #3 is a ***duplicate*** of Entry #1, but was reported when I went to prison.

Entry #4 was reduced to a misdemeanor.

Entry #5 was a misdemeanor — with the charges dropped.

Record last updated 11/28/95.

Notice that there is *nothing* about Louisiana on the FBI record.

I think I have come a long way. You can do the same.

Chapter Three
Current FBI Record Of The Author

37

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
DIVISION 1
WASHINGTON, D.C. 20537

DC0000007 PCN 953246211202

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

- FBI IDENTIFICATION RECORD - FBI NO-767116F

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

NAME	FBI NO.	DATE REQUESTED
RINEHART,WILLIAM ARTHUR	767116F	11/30/95

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	BIRTH PLACE
M	W	07/20/45	606	150	BLU	BRO	OHIO

FINGERPRINT CLASS
23 62 12 PO PO
20 15 16 18 PI

1-ARRESTED OR RECEIVED 08/13/75 SID-OHA556204
AGENCY-POLICE DEPARTMENT DAYTON (OH0570200)
AGENCY CASE-42561
CHARGE 1-B&E
CHARGE 2-CCW

COURT-MRD DISP ORI UNKNOWN LONDON (OHBC10002)
DISPOSITION-
CHARGE-CARRYING CONCEALED WEAPON
SENTENCE-
CONVICTED,CONFINEMENT 12 MOS,SUSP 11M,CREDIT 8D,CASE CR513 5-14-92
GRANTED RELIEF FROM DISABILITY, 3-28-94 PARDONED
DISPOSITION-
CHARGE-ATTEMPT BREAKING & ENTERING
SENTENCE-
CONVICTED LESS OFN, PROBATION 5Y, 5-14-92 GRANTED RELIEF FROM DISABILITY,3-28-94 PARDONED

2-ARRESTED OR RECEIVED 02/13/75

END OF PART 1 - PART 2 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
DIVISION 1
WASHINGTON, D.C. 20537

DCC000002 PCN 993246211202
PART 2

- FBI IDENTIFICATION RECORD - FBI NO-767116F

AGENCY-METRO POLICE DEPT NASHVILLE (TN0190100)
AGENCY CASE-58014 NAME USED-RINHART,WILLIAM ARTHUR
CHARGE 1-FLIGHT TO AVOID PROSECTUTION
CHARGE 2-PAROLE VIOL STATE OH

COURT-
DISPOSITION-
CHARGE-FLIGHT TO AVOID PROSECTUTION
SENTENCE-
TOT OHIO AUTHORITIES
DISPOSITION-
CHARGE-PAROLE VIOL STATE OH
SENTENCE-
TOT OHIO AUTHORITIES

3-ARRESTED OR RECEIVED 04/01/75 SID-OHA556204
AGENCY-STATE CORR INST CHILLICOTHE (OH071025C)
AGENCY CASE-A 141 525
CHARGE 1-ATTEMPTED B&E AT NIGHT

COURT-MRD DISP ORI UNKNOWN LONDON (OHBCI0002)
DISPOSITION-
CHARGE-BREAKING & ENTERING NIGHT SEASON
SENTENCE-
CONVICTED,CONFINEMENT 1Y-15Y,CR513 MONTGOMERY CO,5-14-92 GRANTED
RELIEF FROM DISABILITY,3-20-96 PARDONED

4-ARRESTED OR RECEIVED 01/15/80
AGENCY-POLICE DEPARTMNENT TUCSON (AZ0100300)
AGENCY CASE-8001150281
CHARGE 1-AGG ASLT ON PO

COURT-
DISPOSITION-

END OF PART 2 - PART 3 TO FOLLOW

Chapter Three
Current FBI Record Of The Author

39

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
DIVISION 1
WASHINGTON, D.C. 20537

DC0000002 PCN 053246211202
PART 3

- FBI IDENTIFICATION RECORD - FBI NO-767116F

CHARGE-REDUCED TO MISDEMEANOR CLASS 1 ASSAULT
SENTENCE-
WARRANT ISSUED ON 2-14-80, QUASHED ON 4-15-81 AS CASE WAS DEEMED TO OLD TO PROSECUTE

5-ARRESTED OR RECEIVED 08/16/80
AGENCY-POLICE DEPARTMENT NATCHITOCHES (LA0350100)
AGENCY CASE-8762 NAME USED-RINEHART,BILL ARTHUR
CHARGE 1-SIMPLE BATTERY

COURT-
DISPOSITION-
CHARGE-SIMPLE BATTERY
SENTENCE-
WITHDRAWN, COURT COSTS PAID

6-ARRESTED OR RECEIVED 12/14/87
AGENCY-SHERIFF'S OFFICE LAFAYETTE (LA0280000)
AGENCY CASE-96338 NAME USED-RINEHART,WILLIAM A
CHARGE 1-OWI 1ST

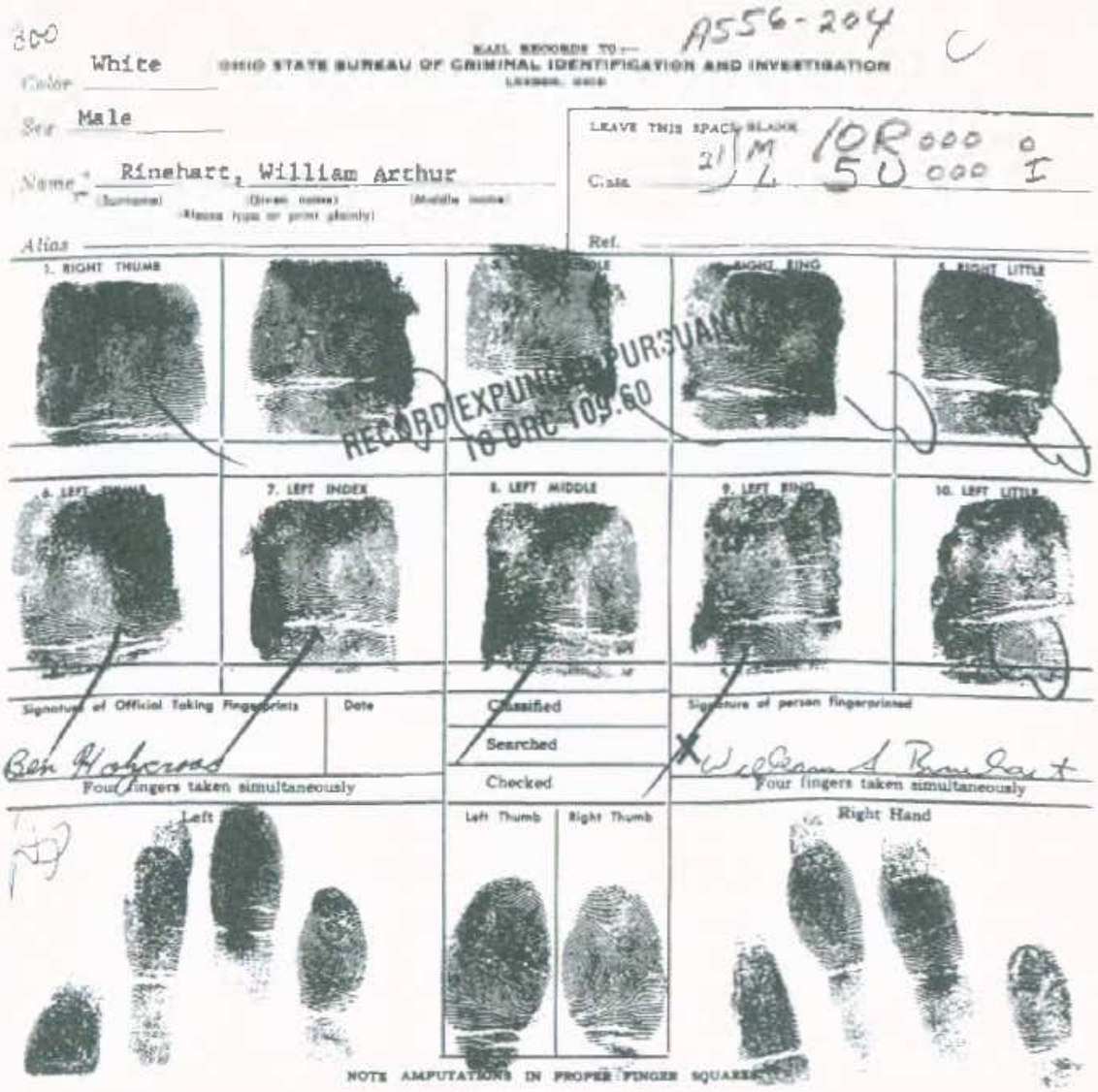
COURT-
DISPOSITION-
CHARGE-OWI 1ST
SENTENCE-
LPCC

RECORD UPDATED 11/28/95

ALL ARREST ENTRIES CONTAINED IN THIS FBI RECORD ARE BASED ON FINGERPRINT COMPARISONS AND PERTAIN TO THE SAME INDIVIDUAL.

THE USE OF THIS RECORD IS REGULATED BY LAW. IT IS PROVIDED FOR OFFICIAL USE ONLY AND MAY BE USED ONLY FOR THE PURPOSE REQUESTED.

How To Clear Your Adult And Juvenile Criminal Records



POLICE DEPARTMENT

PHONE (318) 26 4630
601 EAST CONVENT STREET
P O BOX 4308
LAFAYETTE LOUISIANA 70502

CITY OF LAFAYETTE
HEART OF ACADIANA

February 7, 1995

WILLIAM RINEHART
300 SPRUCE DRIVE APT 204
LAFAYETTE LA 70506

Mr. Rinehart:

I am in receipt of your letter dated November 27, 1995, concerning the expungement of your May 1993 arrest for burglary. Our legal responsibility was fulfilled in December 1988 when the Lafayette Police Department filed an affidavit with the Fifteenth Judicial District Court indicating our compliance with the Order of Expungement signed by Judge Bennett Gautreaux.

Since the 1992 Order of Expungement was directed to the Louisiana State Police and the Federal Bureau of Investigations, we were never served with the expungement order, however, that is irrelevant since we complied with the 1988 Order.

Your claim that it is our responsibility to notify the FBI and the Department of Public Safety is not correct. Both agencies are separate and apart from the City of Lafayette.

Concerning your pardons, this agency does not maintain disposition records. We would not have been in a position to take any action that involves pardons.

We have met our duty and legal requirements by expunging the two arrests ordered expunged in 1988, and cannot be held liable for the actions of the FBI or State Police.

CHARLES CRENSHAW
CHIEF OF POLICE

jvl

How To Clear Your Adult And Juvenile Criminal Records

Attorney General
Betty D. Montgomery

MAY 12, 1995

FEDERAL BUREAU OF INVESTIGATION
CJIS DIVISION
ATTENTION: MS. GERTRUDE M. GOLDSMITH, RM. 10104
10TH & PA. AVE., NW
WASHINGTON, D. C. 20537-9700

REF: WILLIAM ARTHUR RINEHART
FBI # 767116F
OHIO SID # A556204

cpy OH record attached as CJIS Div D

DEAR MS. GOLDSMITH,

THE ATTACHED OHIO CRIMINAL HISTORY HAS BEEN CORRECTED TO SHOW RELIEF FROM DISABILITY AND PARDON.

PLEASE HAVE FBI RECORD CORRECTED TO SHOW THIS INFORMATION.

SINCERELY YOURS,

Wilma D. Sigler

WILMA D. SIGLER
DATA ENTRY OPER III
BCI&I

Ohio Bureau of Criminal Identification and Investigation
P.O. Box 365 · London, Ohio 43140
An Equal Opportunity Employer

Printed on Recycled Paper

Part Two

How To Clear Your *Juvenile* Criminal Record

Chapter One
Introduction

It is commonly believed that a juvenile criminal record is destroyed or sealed and forgotten about when an adolescent reaches his/her "Age of Majority" in his /her home state — be it 16, 17, 18, or 19 years of age. It is a very big mistake to believe that. It is also a dangerous mistake to believe that juvenile criminal records are not and cannot be legally used in an adult court. A lot of times, the juvenile records are the *only* records that a judge has to go by — even in an adult criminal court, and the judges don't think twice about using them. Frequently, especially in a "First-Offender" adult case, the adult's juvenile records are used to set bail, decide the charges, and accept or deny a plea bargain arrangement. Without a juvenile record in First Offense cases, a judge has little to go by.

There are many states that have laws and statutes about using juvenile records — and the sealing or destruction of them. All states have a separate section to handle juvenile offenders, and the treatment of juvenile records. But, to believe that the courts automatically seal or destroy the juvenile records without a separate motion is the most dangerous belief of all. They do not. You ***must*** take a juvenile record *back* to Court to get it sealed or erased.

There is no court that has the time or equipment to mark each and every juvenile's birthday and go back and erase or seal their record when they reach adulthood. It would take too much of the court employees' time, so it is left up to the juvenile records subject (you) to bring his/her record back into court on a *motion* to get it sealed or expunged. If you don't bring the record back into court — it stays on record.

This book is designed for anyone to use — without the cost of attorney's fees. It contains exact instructions to follow in preparing a motion, the juvenile records laws and statutes for each state, and the qualifications for each state that has an "expunge," "purge," or "seal" statute for juvenile criminal records. It is a step-by-step guide to "clear" juvenile criminal records.

Be aware that laws are not just "dead" words — they are subject to change. Before you file any court motion, be sure that you are using the *current* law

that applies to your case. Simply call any law library and ask.

Use this book to get a new start with your life. Use it wisely — use it now.

Chapter Two
Foreword

There is a "movement" afoot in the United States, and if it goes any further it will have a devastating effect on our nation's children. Law enforcement agencies from the Federal Bureau of Investigation down to the tiniest little town police departments are setting out to "merge" or put together, all adult and juvenile criminal records. In other words, there will be no way to tell the difference between a mistake that a child made from the deliberate acts of an adult — by viewing the record. Juvenile records will no longer be stamped "Confidential," and be kept away from public viewing or use. All arrests — regardless of age — will be open to anyone who wants to view them. That is why it is important to act now on juvenile records — before they become a part of your adult record.

Please, take a moment to read the following excerpt from a conference on "Juvenile And Adult Records: One System, One Record?", 1990, (NCJ-114947, 1990).

(On) "DESTROYING REHABILITATION"

"First, the [One Person/One Record] System would destroy it [the chance for rehabilitation] because it would have the effect of destroying the ability to rehabilitate children who have made an error in judgment by making it impossible to develop resources to work with these children. To have One Person/One Record, the public will perceive *children* as **Criminals** and equate them as Adult Criminals committing crimes in the community. This will have the effect of *decreasing,* if not completely eliminating, funds which would (normally) be available to develop programs and resources to *rehabilitate* children. (Funding would be re-directed into building more prisons and jails.)

"Many children engage in conduct without knowing or actually realizing that their behavior is criminal. In neighborhoods you see toilet paper thrown all over a yard. You find mailboxes knocked down. Youths go out and shoplift for the purpose of getting into a prestigious (gang) organization, (and to *get* a record to impress 'significant others') — or they carry a gun or some other kind of weapon just to be the 'big' person on their 'block', (Ofttimes not using the weapon, but just to be 'big.'). Their behavior may be done on a dare or a threat, or because 'everybody's doin' it,' or for a thrill, or out of

ignorance. Ofttimes, when the court asks why it was done, the answer is, 'I don't really know — I had no reason for doing it.'

"In *most* cases, there is no predetermined plot, or plan, or even thought put into the actions. There is no *'Mens rea'* — or Criminal Intent." (From "The Impact of a Merged Record on the Mission of the Court", written by Judge Romae T. Powell, Fulton County Juvenile Court, Atlanta, Georgia.)

There is a definite change in the way our nation is viewing our children. In the past, the philosophy has been that of *"Parens Patrae,"* or the government was the ultimate parent to the juvenile alone — being responsible for all of his actions. That is changing — from "In The Best Interest Of The Child" to "In The Best Interest of the *Community*." The children are going to be the ones to do the suffering in the future.

As always, the future looms ahead of us adults — and we are the ones that make the plans for the next generation. We plan for these children — who will in turn plan for *their* children. The "Plan" we have now will destroy the "Age of Innocence" for those children who make mistakes.

The government is going to take the funds away from the children and build more prisons — rather than concentrate on saving their future. More iron bars and steel doors instead of more Boys' & Girls' Clubs. The only "number" a child will have to know to graduate from juvenile delinquency to adult criminal will be the one posted on his criminal records and his mail.

Use this book now, while it is still possible to clear a juvenile record. Laws change everyday — and you might not have the chance to start over tomorrow.

Chapter Three

Exactly *Who* Is A Juvenile?

To answer that question, we must turn to the State Statutes. Not every state has the same definition, nor treats juvenile records in the same way. As an example, and to point out the seriousness of having a juvenile criminal history record, I will use the California Penal Code.

In the California Penal Code, under the section, "Children," Welfare and Institution Code, Article 13.6, "Serious Offenders," §506, page 1370, Division 2:

§506. Juvenile Criminal History; Procedures Requiring Check of History of Adults Presented to District Attorney's Office for Filing; Charges, Pleas, Sentence.

"Law enforcement agencies and District Attorneys participating in programs funded pursuant to this Article [above] *Shall* adopt procedures to require *a check of Juvenile History* of all **ADULTS** whose cases are presented to the District Attorney's Office for

filing. The Juvenile Criminal History Information *shall* be considered by the District Attorney in the Charging decision and establishing the District Attorney's position on the appropriateness of Pleas and Sentencing."

Let me clear that up a little; it means that if you're arrested as an adult, the prosecutor goes to your *juvenile* record to decide how you should be treated in all phases of Trial. In that kind of situation, you never were a "Juvenile."

But to answer the question, "who is a juvenile?", it's a matter of court jurisdiction. It is a matter, believe it or not, of a birthday. By law, you are a "juvenile" until the day after your state says that you are an Adult. Juvenile jurisdiction ends when the law says it ends — unless a court rules differently. It's not necessarily the same thing.

As a "Ward of the Court," you have different rights as compared to adult jurisdiction. However, as a juvenile, you stand a much better chance of "clearing" your record — use the opportunity wisely.

Age At Which *Juvenile Status* For Juvenile Delinquents Terminates

Ends at age 16

Connecticut
New York
North Carolina
Vermont

Ends at age 17

Georgia
Illinois
Louisiana
Massachusetts
Missouri
South Carolina
Texas

Ends at age 18

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Delaware
District of Columbia
Florida
Hawaii
Idaho
Indiana
Iowa
Kansas
Kentucky
Maine
Maryland
Michigan
Minnesota
Mississippi
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Dakota
Tennessee
Utah
Virginia
Washington
West Virginia
Wisconsin

Ends at age 19

Wyoming

Chapter Four
Juveniles With Criminal Records

In 1975, in the United States, 641,189 juveniles were admitted to and discharged from public juvenile facilities (juvenile halls, juvenile detention centers, etc.). Every one of them has or had a juvenile criminal record.

In 1990, 683,636 juveniles were admitted to public juvenile facilities. When they left the facility, they, too, had a juvenile criminal record. The figures are not out yet for 1996, but it is obvious there will be an increase — as there has been for every year. The "average," then, per year, for a child to receive a juvenile criminal record, is 662,412. Multiply that times 20 (20 years between 1975 and 1995), and you get 13,248,250, plus the year 1996. That makes it almost **14 million** juveniles that have obtained criminal record arrest histories in the last 20 years. That is a good enough reason to write this book.

The age at which a child can legally be sentenced to *death* in South Dakota is at **10 years of age.** That too is a good enough reason to write this book. Of the 33 inmates in the United States that were on *"Death Row"* who were juveniles, at the end of 1993, for offenses when they were 17 or younger: twenty-six were 17 at the time of their offense. Six juveniles were 16. One was 15. That alone is a good enough reason to write this book.

"Bobby Nestor was sent to Camp Hill correctional facility, an adult prison, to *'learn a lesson'*. After more than four months of incarceration, he hung himself after being sexually assaulted by adult inmates." (*OJJDP Juvenile Justice*, Fall/Winter 1995, Volume II, Number 2, page 24.) And that is a good enough reason to write this book.

And, now, we have a **6-year-old** being held in custody in California — under court order. And that is certainly a good enough reason to write this book.

Not that I needed any real good reasons — I have adopted two children from Mexico, and I worry about them all the time. And my profession is criminal justice, with my forte being juvenile Justice. It is right that I worry.

Chapter Five

Facts About Juvenile Criminal Records Expungement Laws

All but two states have some statutory provision for annulment of a juvenile record. These provisions are of two main types: laws providing for sealing the record and laws calling for expungement or destruction of the record.

- Twenty-one states' laws provide for record sealing.
- Twenty-four states' laws call for record expungement.
- Two states provide for both procedures, depending on the age of the individual. One state provides for both mechanisms, depending on the seriousness of the juvenile disposition.
- One state's laws provides simply for a juvenile disposition to be "set aside" (Michigan).

In 40 states, application of these laws is *discretionary* (not mandatory). In eight states, expungement or sealing *is mandatory*. A few laws provide for annulment while the individual is still a juvenile; most do not take effect until the

individual is an *adult*. In three states, a subsequent (an arrest after the record has been sealed or expunged) automatically results in the unsealing of a sealed record — including one state where the sealing of the record is *mandatory*.

Forty states authorize fingerprinting of juveniles.

Twenty-two states in 1994 adopted laws making it easier to prosecute juveniles in adult criminal courts.

- **Every** state provides for prosecutor and/or court access to juvenile records of adult defendants at some point in the judicial process. In 48 states, this authority is explicit.
- There is a distinct and ever-growing movement to combine juvenile and adult criminal records into **one** file — destroying the protection of juveniles from adult court, adult prosecutors, and the separation of different treatment for different age groups. ["Juvenile and Adult Records: One System One Record?", BJS/SEARCH Conference]

In 1988, 7000 juvenile delinquency cases were waived to adult criminal court — in 1992, 11,700 cases were waived — an increase of **68%**. It's getting easier to prosecute children in adult courts.

- Most people are under the impression that their juvenile criminal records will be sealed or erased without them having to do *anything*. That is completely false. Most people believe that their juvenile criminal records can never be used against them — in court or anywhere else- and that is completely wrong. (See *Mug Shots*, the book of booking photos of Al Pacino, Tim Allen, Larry King, etc., now in bookstores.) They didn't bother to clear their juvenile criminal records — or adult records.

Chapter Six

Steps To Take To Clear Your Record

If you, or someone you know, has a juvenile criminal arrest record, and you want to do something about it — now — either get it sealed or expunged, out of the public eye where it can do you no harm — the "doing" is not as complicated or difficult as you might think. It takes no special education to type a motion and file it in juvenile court — or to talk to a judge or prosecutor about your case. Only in complicated cases should you retain legal counsel. Otherwise, you have everything you need in this book.

Certain steps need to be followed, just as in any other legal proceeding.

First, you will need to know where your juvenile criminal record is kept. You should know, but if you don't, you can find it. All you have to do is to ask the

court in the jurisdiction where you live — and they can tell you, or find out for you.

Then, using this book, look up the state where your juvenile record is kept, to see if that state has a "seal" or "expunge" law. There are very few that do not.

Then, using this book, look at the "eligibility requirements" of that state to see if you currently qualify to file your motion.

An example would be, if you live in Indiana, and you are over 22 years old, and you have a juvenile record, you are eligible to file a motion for "sealing" your record. You would see that the sealing is "mandated," (the court *must* seal your record), but only *after* you have made the motion to seal it to the court. If you don't file the motion, the record stays as it is.

Then, using the "sample" motion supplied in this book, type your own motion, using the words "seal" or "expunge" as they appear on the "eligibility requirements". Always double-space. Follow the instructions in every space that has a line and parentheses (address, name, etc.).

When you have the motion ready to file, you can either take it or mail it to the juvenile court that has control of your juvenile record. Do this for *every* state that has a juvenile arrest record on you.

Before you file your motion, try to get a copy of your sentencing minutes, or release from probation, or letters from friends and relatives or employers to recommend your sealing or expungement. **Always make and keep copies!** Send copies of everything

— but make sure the court gets the *original motion* — Notarized — to the juvenile court(s) that have your juvenile records. *Always* send an **Order** with your motion — a sample is supplied here to help.
If there is a court fee or filing fee, and you cannot afford it, ask the court for papers to fill out so that you can file your motion in "forma pauperis" — for free. You will have to prove that you're broke.

You will be representing yourself in court — without a lawyer. If you have supplied the court with all the information demanded, you probably will not have to say anything. As a matter of fact, in juvenile matters, most of the court's decisions are made in the judge's chambers, not in open court.

But, be prepared to go to the court if the judge orders a hearing. Bring all of your papers. Think about what you can tell the judge that will make him/her decide to grant your motion and seal or expunge your juvenile record. Think about who could go with you to talk to the judge for you. Bring any school awards, or work awards, or anything that makes you look good. Be respectful but convincing.

After the hearing, you will know what happened if you are there. If you had to mail your motion, you will have to wait for the judge to make a decision on your case, and receive the decision in your mail.

This is not nearly as complicated as it sounds. But it's important enough to try, isn't it?

If all else fails, hire a lawyer. Get rid of your juvenile criminal arrest record — no matter what you have to do. This book works — use it.

The Contents and "Disposition" of Your Juvenile Record

"Disposition," for legal purposes, is the end result of all phases of a case. For example, there is the investigation and arrest phase, trial phase, pre-sentence investigation phase, and sentencing phase. The final outcome of the sentencing phase is the **final** disposition. Basically, it's "what happened" in the end. Juvenile criminal history "Rap Sheets" are supposed to have final dispositions on them — but a lot of them don't. Problems arise when an agency other than the one that has your record requests a copy of your record — and no final disposition appears — to them it means that your case is still "Pending" — it's not over yet. They don't know the difference. And many, many criminal records, both juvenile and adult, are "disseminated" (given to other law enforcement agencies) without final dispositions on them. The harm comes when your case was either dismissed, or set aside, and your record does not have that information.

There are only three states which require that dispositions be included in juvenile records which are "disclosed" (allowed to be viewed by someone). That is equal to saying only three states require that the *whole truth* be sent to law enforcement agencies that get copies of your juvenile record. All of the others can send just your charges. In California, both the Department of Justice *and* local law enforcement agencies are required to include

disposition of an arrest or the taking into custody on juvenile records. Arizona law requires that the juvenile court release the dispositions of juvenile arrests, as well as referrals and complaints, when the records of a juvenile are released to other law enforcement agencies, prosecutors, or the juvenile's attorney. When law enforcement agencies in Pennsylvania disclose (show) the content of juvenile records, they are also *required* to "show" the disposition of the case. Giving law enforcement agencies a juvenile record *without* a disposition is like giving them **half** of the information — and they don't know the difference — so they make a "guess," and usually it's wrong.

Only two states have statutory procedures which permit the individual (you) to audit (look at) his own juvenile record. In Indiana, the record subject (you) may request modifications (changes) to his record if it is wrong.

Washington law sets forth a two-step, self-audit procedure in which the court must *first* grant the individual (you) the authority to inspect the record. After the inspection, the individual (you) must make a *second motion* to the court to have the record corrected. However, now you're an adult — and you have adult rights and can use them.

There are several ways as an adult that you can get a copy of your juvenile record. The Freedom of Information Act is one way. A motion for discovery is another. The Code of Federal Regulations (CFR) 28, Part 20, under "Dispositions" is yet another. State laws governing "challenge" of a record are still one

more. You're not a "juvenile" anymore by law — use the law to get what you want. See the part of this book on adult criminal records — "dispositions."

Statutes for Sealing Juvenile Criminal Records

ALABAMA: Alabama Code §12-15-103 (Seals police records)

ALASKA: Alaska Statute §47.10.090 (Seals court/police)

ARIZONA: (No statutes — see "expungement" statutes)

CALIFORNIA: California Wel. & Instit. Code §781 (Police)

COLORADO: Colorado Revised Statute §19-1-111 (Police)

CONNECTICUT: (No statutes — see "expungement" statutes)

DELAWARE: (No statutes — see "expungement" statutes)

DISTRICT OF COLUMBIA: D.C. Code §16-2335. (Police)

FLORIDA: Florida Statute §39.12 (Seals court/police)

GEORGIA: Georgia Code §15-11-60 (Police)

HAWAII: (No statutes — for either sealing or expungement)

IDAHO: Idaho Code §16-1816A (Police) (Also means "expunge")

ILLINOIS: (No statute — see "expungement")

INDIANA: (No statute — see "expungement")

IOWA: Iowa Code §232, 150 (Police)

KANSAS: Kansas Statute §38-1610 (Also means "expunge")

KENTUCKY: Kentucky Revised Statute §610.330 (Police)

LOUISIANA: (No statute — see "expungement")

MAINE: (No statutes for either sealing or expungement.)

MARYLAND: Maryland CTS. & JUD. PROC. CODE ANN. §3-828 (Court/police)

MASSACHUSETTS: (No statutes — use "caselaw" precedent: police Commander of Boston Versus Municipal Court of Dorchester District (374 Mass. 640, 374 N.E. 2d 272. [1978]). (See instructions and use for both sealing and expungement.)

MICHIGAN: (No statute for either sealing or expungement.)

MINNESOTA: (No statute — see "expungement")

MISSISSIPPI: Mississippi CODE ANN. §43-21-263 (Court/police)

MISSOURI: Missouri REV. STAT. §211.321 (Court/police)

MONTANA: Montana REV. CODE ANN. §41-5-604 (Automatic)

NEBRASKA: Nebraska REV. STAT. §43-2, 105 (Court/police)

NEVADA: Nevada REV. STAT. §62.275 (Court/police) (Automatic)

NEW HAMPSHIRE: New Hampshire REV. STAT. ANN. §169-B:35 (Court/police)

NEW JERSEY: New Jersey REV. STAT. §2A:4A-62

NEW MEXICO: New Mexico STAT. ANN. §32-1-45

NEW YORK: New York FAM. CT. ACT §§375.1 & §§375.2

NORTH CAROLINA: (Use "expungement" statute)

NORTH DAKOTA: North Dakota CENT. CODE §27-20-53(1) (Court only)

OHIO: Ohio REV. CODE ANN. §2151.358 (Court/Police)

OKLAHOMA: No statutes available. Use "expungement" statute.

OREGON: No statute available. Use "expungement" statute.

PENNSYLVANIA: No statute available. Use "expungement" statute.

RHODE ISLAND: No statute for sealing or expungement.

SOUTH CAROLINA: No statute — use "expungement" statute.

SOUTH DAKOTA: South Dakota COMPILED LAWS ANN. §26-8-57.1

TENNESSEE: No statute for sealing or expungement.

TEXAS: Texas FAM. CODE Title 3, §51.16

UTAH: Utah CODE ANN. §78-3a-56 (Court/police)

VERMONT: Vermont STAT. ANN. Title 33, §665

VIRGINIA: Virginia CODE §16.1-306 (Automatic)

WASHINGTON: Washington REV. CODE ANN. §13.50.050

WEST VIRGINIA: West Virginia CODE §49-5-17

WISCONSIN: Courts not allowed by law to seal or expunge.

WYOMING: Wyoming STAT. §14-6-239 (Court records only)

Statutes For Expungement of Juvenile Records

ALABAMA: Alabama CODE §12-15-103. (Court and police)

ALASKA: No statute — use "sealing"

ARIZONA: Arizona REV. STAT. §8-247

ARKANSAS: Arkansas STAT. ANN. §45.441.1 (Court records only)

CALIFORNIA: California WELF. & INSTIT. CODE §781 (Court and police)

COLORADO: No statute — use "sealing"

CONNECTICUT: Connecticut GEN. STAT. ANN. §46b-146 (Court and police)

DELAWARE: Delaware CODE Title 10, §930 (Court and police)

DISTRICT OF COLUMBIA: No statute — use "sealing"

FLORIDA: Florida STAT. §39.12. (Court records only)

GEORGIA: No statute – use "sealing"

HAWAII: No statutes for sealing *or* expungement

IDAHO: No statute – use "sealing"

ILLINOIS: Illinois REV. STAT. Ch. 37, §702-11 (Court and police)

INDIANA: Indiana CODE §31-6-8-2 (Court and police)

IOWA: No statute – use sealing

KANSAS: No statute – use "sealing"

KENTUCKY: No statute – use "sealing"

LOUISIANA: Louisiana CODE JUV. PROC., ART. 124-128

MAINE: NO statute for sealing *or* expungement.

MARYLAND: No statute – use "sealing"

MASSACHUSETTS: No statute – use *caselaw* under "sealing"

MICHIGAN: No statutes for sealing *or* expungement

MINNESOTA: Minnesota STAT. §§260.194-260.195 (Court records only)

MISSISSIPPI: Mississippi CODE ANN. §§43-21-265 & 67-3-70 (Court and police)

MISSOURI: Missouri REV. STAT. §211.321 (Court records only)

MONTANA: Montana REV. CODES ANN. §41-5-604 (Court and police)

NEBRASKA: No statute – use "sealing"

NEVADA: No statute – use "sealing"

NEW HAMPSHIRE: New Hampshire REV. STAT. ANN. §169-D:25

NEW JERSEY: Use N.J. Ch. 52, TIT. 2C, §2C:52-2-2C:52-4.1

NEW MEXICO: No statute – use "sealing"

NEW YORK: New York FAM. CT. ACT §§375.3, and "caselaw"

NORTH CAROLINA: North Carolina GEN. STAT. §7A-676 (Court and police)

NORTH DAKOTA: North Dakota CENT. CODE §27-20-54 (Court and police)

OHIO: Ohio Rev. Code Ann. §2151.358 (Court and police)

OKLAHOMA: Oklahoma STAT. ANN. TITL. 10, §1506 (Court and police)

OREGON: Oregon REV. STAT. §§419.800-419-839 (Court and police)

PENNSYLVANIA: Pennsylvania CONS. STAT. ANN. §9123 (Court and police)

RHODE ISLAND: No statute for sealing *or* expungement

SOUTH CAROLINA: Use S.C. Code §20-7-1335 (Court and police)

SOUTH DAKOTA: No statute – use "Sealing"

TENNESSEE: No statute for sealing *or* expungement

TEXAS: Texas FAM. CODE Title 3, §51.16 (Court and police)

UTAH: Utah CODE ANN. §78-3a-57 (Court only)

VERMONT: No statute – use "sealing"

VIRGINIA: Virginia CODE §16.1-306

WASHINGTON: Washington REV. CODE ANN. §13.50.050 (Court and police)

WEST VIRGINIA: No statute – use "sealing"

WISCONSIN: No statute for sealing *or* expungement

WYOMING: Wyoming STAT. §14-6-241 (Court and police)

IMPORTANT!!!

The *difference* between "SEALING" and "EXPUNGEMENT":

To "SEAL" means to remove the record from the main file and to secure it in a separate file available only to the court. All others must *destroy it.*

To "EXPUNGE" a record means to **destroy** it entirely.

State Expungement Laws By Type of Law and Eligibility Requirements

State	Age	Expunge/Seal	Others
Alabama	Under 23,24	Seal & Expunge	Subsequent conviction nullifies sealing
Alaska	18 or release from custody	Sealing	Mandated
Arizona	18 or 23	Expungement	(None)
Arkansas	21	Expungement	Mandatory
California	18	Seal & Expunge	Expunge 5 years after sealing
Colorado	None	Sealing	No serious felony
Connecticut	16	Expungement	(None)
Delaware	None	Expungement	(None)
Florida	24	Expungement	Serious crimes sealed
Georgia	None	Sealing	(None)
Hawaii	None	None	(None)
Idaho	18	Sealing	(None)
Illinois	None	Expungement	No Murder 1
Indiana	22	Sealing	Mandated unless later felony
Iowa	21	Sealing	Fingerprints expunged
Kansas	None	Expungement	Specified crimes excluded
Kentucky	None	Expungement	(None)
Louisiana	17	Expungement	Specified crimes excluded
Maine	None	Sealing	(None)
Maryland	None	Sealing	Mandatory
Massachusetts	None	Sealing	(None)
Michigan	24	"Set Aside"	[Not for "Life Crimes"]
Minnesota	23	Expungement	(None)
Mississippi	20	Sealing	(None)
Missouri	17	Sealing	(None)
Montana	18	Sealing	(None)
Nebraska	None	Expungement	(None)
Nevada	None	Sealing	Mandatory at age 24
New Hampshire	19	Sealing	Mandatory
New Jersey	None	Sealing	(None)
New Mexico	None	Sealing	(None)
New York	16	Expungement	Designated felonies excepted.
North Carolina	16	Expungement	(None)
North Dakota	16	Expungement	(None)
Ohio	None	Sealing	(None)
Oklahoma	None	Sealing	(None)

Oregon	None	Expungement	(None)
Pennsylvania	None	Expungement	(None)
Rhode Island	[As affirmed, this state has **no** sealing or expungement]		
South Carolina	18	Expungement	Nonviolent offenses
South Dakota	None	Sealing	(None)
Tennessee	18	Expungement	(None)
Texas	None	Sealing	(None)
Utah	None	Expungement	(None)
Vermont	None	Sealing	(None)
Virginia	19	Expungement	(None)
Washington	None	Sealing	(None)
West Virginia	19	Sealing	Mandatory
Wisconsin	[Has **no statutes** for sealing or expungement]		
Wyoming	18	Expungement	(None)

Source: National Institute of Justice (NIJ) *Research in Brief,* "State Laws on Prosecutors' and Judges' Use of Juvenile Records," [NCJ 15506, November, 1995].

Sample Motion for Sealing or Expungement of Juvenile Criminal Record Information:

IN THE INTEREST OF:	*	FILE NO. (yours)
(your name here)	*	SEX (male/female)
SOCIAL SECURITY NO.	*	AGE (yours)
(your SSN)	*	DATE OF BIRTH (yours)

TO THE JUVENILE COURT OF (city, state)

1. Your petitioner alleges that the above named person to be of the sex and age and to have the name there set forth; that the father of the above is (father's name) , who resides at (address of father) , the mother is (name of mother) , who resides at (address of mother), said named person resides at (address where you live) , in said county and state, and is in the actual custody, possession, and control of (name of legal guardian here), who resides at (address of legal guardian) , that said person makes application to the Court for an Order (sealing or expunging, choose one) (his/her) records by reason of the facts set forth below; that the above-named person is subject to the jurisdiction of this Court and the above facts of this application are within the jurisdiction of this Court; that the application within is filed in the best interest of the public and the within-named person.

2. That more than (in years) have elapsed since the above-named was finally discharged from the jurisdiction of this Court for any cause or the Department of Human Resources, Division of Family and Children's Services.

3. That since the final discharge (he/she) has not been convicted of a felony or of a misdemeanor involving moral turpitude or adjudicated a delinquent or unruly child and no proceeding is pending seeking conviction or adjudication.

4. That (he/she) has been rehabilitated.

5. Petitioner requests that all files, records, fingerprints, photographs, and any reference to same be (sealed/expunged) according to the laws of this Court, (put State Statute here), the same being in the best interest of the above-named person and of the community.

Petitioner prays that process issue and notice be directed to all parties according to law requiring them to show cause why said application should not be granted.

(sign Full Name)

Notary Public stamp here.

IN THE JUVENILE COURT OF (city and state)

IN THE INTEREST OF	*	FILE NO. (yours)
(your full name here)	*	SEX (male/female)
SOCIAL SECURITY NO.	*	AGE (yours)
(your SSN here)	*	DATE OF BIRTH (yours)

ORDER

Petition having been filed in this Court on (leave blank), by the above-named individual moving the Court (seal/expunge) (his/her) records in the Juvenile Court and that the necessary parties be notified as to the (sealing/expungement) of (his/her) records; proper notice having been made to the Department of Human Resources, District Attorney, and Law Enforcement Agencies of said city and county in accordance with (state exact law here, as taken from this book).

The investigation revealing that no further action has been brought against this individual in the Juvenile Court of (city and State), since (leave line blank), and no objections having been filed in regard to said petition, the said petition is hereby granted,

and

IT IS ORDERED that all records in the Juvenile Court of (city and state), in the State Department of Human Resources, Sheriff's

Department, police Department, and in any and all other law enforcement agencies with regard to any reference to said individual or offense brought in the Juvenile Court of (city and state), including all index references, reports, files, fingerprints, or memoranda, and said record of said individual is hereby (sealed/expunged) and be treated as if it never occurred.

SO ORDERED.

This (leave blank) day of (leave blank), 19

_____

Judge, Juvenile Court
(city, state)

Chapter Seven
Conclusion

Remember, this is a "do-it-yourself" book. It is important that you follow the steps and directions — and see where they lead you. In most cases, it will be simple. Some cases --- regardless of what you do — will require the expertise of private legal counsel.

This book is meant to do two things — help you realize the ramifications of a juvenile record and the harm it can cause in your future, and help you turn it around and get started out in adulthood on the right track.

Most of us that have had a juvenile record know by now that it is in our younger years that we made the mistakes that were called "crimes" by society — but it was in the later years that we made the mistakes "intentional" — as adults. Our juvenile criminal

records were used as a "springboard" into an adult life of crime. This is your chance to change that.

It may well be your one, your only, your *last* chance to do something about it. For your own sake, do it now.

As a man who knows only too well what a criminal record can do to a lifetime, I can only say that I wish someone had written the combined version of ***How To Clear Your Adult And Juvenile Criminal Records*** years ago — then maybe I could have had the chance that I'm giving you to live your dreams....

Important Information To The Users Of This Book

It has been the experience of the author of this book that not all law enforcement agencies expunge criminal records even after they have been ordered to by the Court. I have known law enforcement agencies to even lie about having received an Order To Expunge, and some just say that they "haven't gotten around to it." Either way, your record remains out there for people to see. Some just refuse to expunge it — in direct disobedience of a court order.

So, what do you do when that happens? You have your Order To Expunge or Seal your criminal record from the Court, the Clerks of Court have sent the Order to all law enforcement agencies that have your criminal record, but you go back and check again and find that your record is *still there*, and still causing you trouble.

There is a little known United States Department of Justice Regulations (unknown to most law enforcement agencies, lawyers, judges, and just about everybody) that

deals with the "disposition" of criminal records. The disposition is how a case on the record stands at any given time. If its been ordered to be expunged, it shouldn't appear at all. If its been ordered to be sealed, it should state "Sealed" on law enforcement agencies' records.

Simply put, the Department of Justice *demands* to know, within *120 days*, if anything has *changed* on any criminal records. If your record still appears after 120 days, your law enforcement agency is in violation of a federal regulation — (enclosed here), for not expunging your records, and not notifying the FBI to also expunge or seal your record.

There are a couple of things that you can do — now that you are aware of the federal regulation, and the law enforcement agency that didn't expunge or seal your record is blissfully ignorant. I've gotten results either way I went. (And I "went" more than a few times.)

1. You can write a letter to the law enforcement agency that has not expunged your record within the required 120 days, and threaten to file a lawsuit against them — and take copies of your Order To Expunge to the U.S. Attorney and ask for Federal Sanctions against them for violating the Federal Requirements of Dispositions. With your letter, send a copy of the 28 CFR part §20. Found here. No law enforcement agency wants to be fined $10,000, but they especially don't want to *lose* federal funding. In most cases, just do this.

2. You can get another copy of your FBI record, and if your record is still appears, challenge it! Make the FBI question the law enforcement agency that was supposed to expunge your record, but didn't.

You will get a copy of the response that the law enforcement agency makes to the FBI. (This is usually where you find out that they deny ever having received an Order To Expunge — and they are lying to the FBI.)

3. You can file a civil action against the law enforcement agency that has not expunged your record in federal court. Under the 1983 Civil Rights Bill, if the law enforcement agency has not expunged your records you still do not have the civil rights that the Court restored to you in the Order To Expunge.

4. You can sue the law enforcement agency itself for violating right-to-privacy statutes, defamation of character, malfeasance in office, loss of civil rights by negligence, and failure to perform duties, in a *state court*, because you're protected by state laws as well as federal regulations.

Yes, I have done all of these things. No, nothing ever got to court — I always received notification that the record was expunged *before* it ever got to court. Yes, this *works*.

Department of Justice
28 CFR Ch. 1 (7-1-94 Edition)

28 Code of Federal Regulations: Subpart "C" — Federal System and Interstate Exchange of Criminal History Information.

§20.30 — APPLICABILITY: "The provisions of this Subpart of the regulations apply to any Department of Justice criminal history record information system that serves criminal justice agencies in two or more States and to Federal, State, and Local criminal justice agencies to the extent that they utilize the services of Department of Justice criminal history record information systems. These regulations are applicable to both manual and automated systems."

§20.31 — RESPONSIBILITIES:
"(a) The Federal Bureau of Investigation (FBI) shall operate the National Crime Information Center (NCIC), the computerized information system which includes telecommunications lines and any message switching facilities which are authorized by law or regulation to link local, state, and federal criminal justice agencies for the purpose of exchanging NCIC-related information. Such information includes information in the Computerized Criminal History File (CCH), a cooperative Federal-State program for the interstate exchange of criminal history record information. CCH shall provide a central repository and index of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies.
(b) The FBI shall operate the Identification Division to perform identification and criminal history record information functions for Federal, State, and Local criminal justice agencies, and for noncriminal justice agencies and other entities where

authorized by Federal Statute, State Statute pursuant to Public Law 92-544 (86 Stat. 1115), Presidential Executive Order, or regulation of the Attorney General of the United States.

(c) The FBI Identification Division shall maintain the master fingerprint files on all offenders included in the NCIC/CCH File for the purposes of determining First Offender Status and to identify those offenders who are unknown in other states through prior criminal history records."

§20.32 INCLUDABLE OFFENSES:

"(a) Criminal history record information maintained in any Department of Justice criminal history record information system shall include serious and/or significant juvenile offenses.

(b) **Excluded** from such a system are arrests and court actions limited only to non-serious changes, i.e., drunkenness, vagrancy, disturbing the peace, curfew violation, loitering, false fire alarm, non-specific charges of suspicion or investigation, traffic violations (except data will be included on arrests for manslaughter, driving while under the influence of drugs or liquor, and hit and run.)

§20.37 — RESPONSIBILITY FOR ACCURACY, COMPLETENESS, CURRENCY:

"It shall be the responsibility of each criminal justice agency contributing data to any Department of Justice criminal history record information system to assure that information on individuals is **kept** complete, accurate, and current so that all such records shall contain to the maximum extent feasible **dispositions** for all arrest data included therein. Dispositions should be submitted by criminal justice agencies within **120 days** after the Disposition has occurred.

That same 28 CFR part 20 states that under Federal Regulations, any law enforcement agency that fails to report changes in individual's Dispositions within the

specified 120 day period may be **Fined** for **$10,000** — each offense, and **Loss of all Federal Funding** [§20.37, "Sanction For Non-Compliance"]

Appendix One
Important Information — By State

CALIFORNIA: "Pursuant to California statute, unless for good cause shown, the court must order Sealed records destroyed at age 38 if the individual was adjudicated for a crime. Others in possession *may* destroy the records *five years* after the record was ordered Sealed."

CONNECTICUT: "Expungement Orders are called Erasure Orders in Connecticut."

INDIANA: "The records may be either destroyed or given to the Record Subject."

MASSACHUSETTS: "By case law, courts have the authority to order expungement of police records if the utility (usefulness) of the records for law enforcement purposes is likely to be minimal or non-existent."

MINNESOTA: "Expungement authority is limited to (1.) the adjudication of a child as an habitual truant, runaway, or juvenile petty offender, [Minnesota Statute §260.194 Subdiv. 2], and (2.) the adjudication of a child as a juvenile alcohol or substance abuser [Minnesota Statute §260.195 Subdiv. 7]. In either case, the adjudication may be expunged at any time the court deems advisable."

MISSISSIPPI: "A special expungement provision is included in the alcoholic beverages chapter regarding those under 21 convicted of purchasing light wine or beer, which is a misdemeanor under Mississippi Law."

MISSOURI: "The Statute provides for the destruction of all social histories, records and information other than the official court file; the official court file and law enforcement records may be sealed."

NEW HAMPSHIRE: "Expungement provisions are limited to the automatic expungement at age 18 for children in need of services."

NEW JERSEY: "The expungement of juvenile records is covered by the provisions of New Jersey statutes, however, expungement is defined as 'extraction and isolation' of records."

NEW YORK: "The New York Statute recognizes the *inherent* authority of the court to order expungement of court records." Also, in New York, "By case law, the courts may order the expungement of law enforcement records." [Use "Matter of

Todd H., 49 N.Y. 2d 1022, 429 N.Y.S.2d 401,406 N.E.2d 1338."]

OHIO: "Pursuant to the expungement statute, if the applicant for expungement does not waive his right to bring a civil action based upon the arrest, the court must maintain a copy of all records pertaining to the case, except fingerprints, until the applicant [person making the motion to expunge] executes a written waiver, or until the Statute of Limitations expires, or until any pending litigation based upon the arrest is terminated."

UTAH: "Although the sealing provisions are referred to as 'expungement,' there are also *limited* provisions for the destruction of records pursuant to Utah Law." Also, "The *Limitations* on the destruction of records in Utah are great, and effectively swallow the provision. Records which may not be expunged include the Petition [the motion], the Summons [of the Prosecutor and witnesses], the Findings [the decision of the Court], Decrees [whatever the court orders], and any other records the Court selects." In other words, in effect, Utah has an "Expunge" statute only on paper. And it's not worth the paper it's written on.

WISCONSIN: Wisconsin has no statutes to expunge or seal juvenile records by law. It is expressly *forbidden* to expunge or seal those records in the Wisconsin statutes. Wisconsin **does**, however, have an adult statute that allows you to obtain and copy your records — (Wisconsin Statutes

Annotated: §19.35(1.) And, a "Purging of Non-Conviction Information," (expungement), under Wisconsin Statute §165.84(1.). If it were me, I would submit a motion to the adult court for a copy of my juvenile record — and if it were turned down I would submit a letter to the U.S. Attorney General's Office for denial of Freedom of Information Act information — (Wisconsin has no statute for that, either). Then with the record attached, I would file a motion to expunge the juvenile record under the above statute to expunge the juvenile record — in **the adult court**. If that were to be denied, I would appeal on certiorari directly to the Wisconsin State Supreme Court.

Appendix Two
Glossary

The following is a list of words and what they mean in connection with criminal records: This list can be used for both adult and juvenile Records.

Accuracy and Completeness: A *requirement* that agencies institute procedures to ensure reasonably complete and accurate criminal history information, including the setting of deadlines for the reporting of prosecutorial and court **Dispositions.** (Dispositions must be reported to FBI within 90 days — see 28 CFR, Part 20.)

Dissemination Regulations: Restrictions on dissemination (on who can get your records) of criminal history information.

Freedom Of Information Act — Including Criminal Justice Information: Provisions for public (your)

access to government records (police and court) that apply to criminal justice records.

Gold-Seal Pardon: A pardon signed by the state Governor; so-called because they are embossed with a gold seal. It's "The Best You Can Get."

Inspection: The right of an individual (you) to examine his or her criminal history record.

Judicial Review of Challenged Information: The right of an individual (you) to appeal to a state court an adverse (against you) decision concerning challenged information.

Maxing Out: Serving a maximum sentence.

OWI: Operating While Intoxicated. Same as DWI or DUI.

Purging ***CONVICTION*** *Information:* The destruction or return to an individual of criminal history information indicating a *conviction.*

Purging Non-Conviction *Information (from record):* "Purging" means to remove, destroy, erase, expunge. The destruction or return to the individual (you) of criminal justice information where **no** conviction has resulted from the event (arrest) triggering the collection of the information.

Removal of Disqualifications: The restoration of rights and privileges such as public employment to persons who have had criminal records purged or sealed.

Right to Challenge: The right to an administrative proceeding in which an individual (you) may contest the accuracy or completeness of his or her criminal history record.

Right To State Non-Existence of Record: The right to indicate in response to public or private inquiries the *absence* of your criminal history in cases of arrest not leading to conviction, or when your conviction record has been purged.

*Sealing **Conviction** Information:* The removal from active files of individual (your) criminal history information indicating a *conviction.*

Sealing Non-Conviction Information: The removal of criminal history information from active files where no conviction has resulted from the event (arrest) triggering the collection of the information.

Set-Aside: To put aside an arrest until the court decides what to do with it, i.e., to see if a subsequent arrest takes place within a short period of time. The arrest is not recorded, nor disseminated. In Michigan, there is *no access* to juvenile records, therefore, there is no need for expungement/sealing laws. "Set Aside" is the same as Nolle Prosequi, not prosecuted.

Appendix Three

Rules And Regulations

Regarding Disclosure of FBI Records To Subject

[Order 556-73]

Part 16 — Production Or Disclosure Of Material Or Information

Subpart C — Production of FBI Identification Records in Response to Written Requests by Subjects Thereof

By order dated September 24, 1973, the Attorney General of the United States directed that the Federal Bureau of Investigation, hereinafter referred to as the FBI, publish rules for the dissemination of arrest and conviction records to the subjects of such records upon request. This order resulted from a determination that 28. U.S.C. 534 does not prohibit the subjects of arrest and conviction records from having access to those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, satisfactorily proof of identity of the person whose identification record is requested and a processing fee of $18.00.

Since the FBI Identification Division is not the source of the data appearing in identification records, and obtains all data thereon from fingerprint cards or related identification forms submitted to the FBI by local, state, and Federal agencies, the responsibility for authentication and correction of such data rests upon the contributing agencies. Therefore, the rules set forth for changing, correcting or updating such data require that the subject of an identification record make application to the original contributing agency in order to correct the deficiency complained of.

The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable because the material contained herein relates to the interpretation of 28 U.S.C. 534 as allowing the granting of an exemption to subjects of identification records and relief of prior administrative restrictions on dissemination of such records to them. Furthermore, it is deemed in the public interest that there be no delay in effective date of availability of identification records to the subjects thereof.

By virtue of the order of the Attorney General, dated September 24, 1973, and pursuant to the authority delegated to the Director, FBI by 28 CFR 0.85(b), Part 16 of 28 CFR Chapter I, is amended by adding the following new Subpart C:

§ 16.30 Purpose and scope

The subpart contains the regulations of the Federal Bureau of Investigation, hereafter referred to as the FBI, concerning procedures to be followed when the subject of an identification record requests production thereof. It also contains the procedures for obtaining any change, correction or updating of such record.

§ 16.31 Definition of identification record

An FBI identification record, often referred to as a "rap sheet," is a listing of certain information taken from fingerprint cards submitted to and retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprint cards submitted in connection with Federal employment, naturalization, or military service. The identification record includes the name of the agency or institution which submitted the fingerprint card to the FBI. If the fingerprint card concerns a criminal offense, the identification record includes the date arrested or disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint cards, disposition reports and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Identification Division is not the source of the arrest data reflected on an identification record.

§ 16.32 Procedure to obtain an identification record

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to FBI, Identification Division, Room 10104, Washington, D.C. 20537-9700, or may present his/her written request in person during regular business hours to the FBI Identification Division, J. Edgar Hoover FBI Building, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-ink fingerprint impressions placed upon fingerprint cards for forms commonly utilized for applicant of law enforcement purposes by law enforcement agencies.

§ 16.33 Fee for production of identification records

Each written request for production of an identification record must be accom-

panied by a fee of $18.00 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provision of 31 U.S.C. 9701 and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigence.

Effective 5-1-95

§ 16.34 Procedure to obtain change, correction or updating of identification records

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her challenges of any entry on his/her record to the Assistant Director of the FBI Identification Divisions, Washington, D.C. 20537-9700. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency.

Published in the Federal Register on 11/28/73; amended on 10/27/78, 10/27/81, 8/8/83, 5/6/86, 5/17/91, and 1/3/95.

In Regards To Author's Current Record

The author's definition of "cleared" criminal records is that they are either expunged, sealed, or pardoned with the restoration of all civil rights. "Pardon," in some cases, may not seem to be enough, but there are limits to what can be done to criminal records — and I've pushed them as far as I can go. What has been "do-able," I have done to the maximum. Cleaning up a seven-page, 32-entry FBI "rap sheet" hasn't been that easy, especially when I have done it *alone*.

The author has four pardons for two felony convictions. One of those has been expunged. The author has expunged numerous misdemeanors, and continues to delete entries from his files. The reader would do well to remember that the only exisiting felony conviction that the author has now has been *duplicated*, thanks to the Ohio Department of Corrections. It's still illegal for it to appear at all. But even at that, the Ohio felony conviction has a full pardon, and an additional Relief From

Disability. No one has more civil rights than I. In August, 1996, the "OWI 1st" was expunged from all my records.

Let's take a look at the author's FBI record as it now stands. There are five entries — two pages. One felony, three misdemeanors.

The first entry is a *dupliate* of another entry. The first entry has been pardoned, and Relieved From Disability, which means the record does not mean anything — the "disability" of the record (or loss of rights) does not exist.

The second entry is nothing but a statement that I was picked up in Nashville, and held for transportation back to Ohio — no crime was committed.

The third entry is a *duplicate* of #1.

The fourth entry, from Tucson, Arizona, was a charge that was ordered *quashed or* annulled, which means that it was never prosecuted — and is expungable.

The fifth entry is a misdemeanor in which the charges where *dropped.*

That's it. Nothing else. One entry that is no arrest or conviction — Nashville. One entry that was dismissed — Louisiana. One entry that was quashed (or annulled) — Arizona. One entry that is duplicated — with full pardon — Ohio. **NONE** of these entries mean anything. From where I stand, this is a "clear" record.

"Do you hear the children, O my brothers?
Ere, the sorrow comes with the years."

Elizabeth Barrett Browning
— 1806-1861

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